

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>DEBORAH D. PETERSON, Personal Representative of the Estate Of James C. Knipple (Dec.), et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>ISLAMIC REPUBLIC OF IRAN; BANK MARKAZI a/k/a CENTRAL BANK OF IRAN; BANCA UBAE SpA; CITIBANK, N.A., and CLEARSTREAM BANKING, S.A.,</p> <p>Defendants.</p>	<p>Case No.: 10 CIV 4518 (KBF)</p> <p>PLAINTIFFS' OPPOSITION TO CLEARSTREAM'S MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)</p>
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The Plaintiffs who are identified in Exhibit A annexed hereto, in opposition to the Amended Notice of Motion of third-party garnishee and defendant, Clearstream Banking S.A. ("Clearstream") to dismiss the Second Amended Complaint and the Cross-claims of the Greenbaum Judgment Creditors, Acosta Judgment Creditors, Beer Judgment Creditors, Kirschenbaum Judgment Creditors, Murphy Judgment Creditors, Arnold Judgment Creditors, and any other Third-Party Respondents identified in paragraph (b) of the Court's Order dated December 28, 2012 (ECF 157), pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim on which relief can be granted, will rely by reference upon the following documents previously filed in this action:

1. Plaintiff's Opposition to Clearstream's Renewed Motion to Vacate Restraints dated March 12, 2012, including their Memorandum of Law, Declaration of Liviu Vogel and exhibits thereto (ECF 198, 199, filed under seal)¹;

2. Plaintiffs' Motion for Partial Summary Judgment dated April 2, 2012 (ECF 209), including their Memorandum of Law in support thereof (ECF 210, filed under seal), the Declarations of Keith M. Fleischman, Curtis C. Mechling, David B. Misler, Suzelle M. Smith and Liviu Vogel in support thereof, and exhibits thereto (ECF 211-214);

3. Plaintiffs' Reply Memorandum of Law in Support of their Motion for Partial Summary Judgment dated August 3, 2012; the Reply Declaration of Liviu Vogel in Support of Plaintiffs' Motion for Partial Summary Judgment dated August 3, 2012 and exhibits thereto (ECF 270, filed under seal);

4. Plaintiffs' Supplemental Memorandum of Law in Support of their Motion for Partial Summary Judgment, dated September 14, 2012; and the Supplemental Declaration of Liviu Vogel in Support of Plaintiffs' Motion for Partial Summary Judgment dated September 14, 2012, and exhibits thereto (ECF 276, filed under seal); and

5. Plaintiffs' Supplemental Reply Memorandum of Law in Support of Their Motion for Partial Summary Judgment dated December 3, 2012, and the Supplemental Reply Declaration of Liviu Vogel in Support of Plaintiffs' Motion For Partial Summary Judgment dated December 3, 2012 (ECF 292, filed under seal).

¹ The ECF docket does not identify documents filed under seal by name, so the Plaintiffs assume the ECF numbers supplied herein correspond to the documents by virtue of the filing date indicated.

In further opposition to Clearstream's motion to dismiss pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, Plaintiffs incorporate by reference the arguments contained in their Memorandum of Law in Opposition to the motion of Banca UBAE, SpA to dismiss pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, dated January 4, 2013.

Dated: January 4, 2013

Respectfully submitted,



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Exhibit A

“**Peterson Plaintiffs**” refer to the plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Deborah D. Peterson, et al. v. Islamic Republic of Iran, et al.*, Civil Action Nos. 01-2094 and 01-2684 (RCL), who seek to enforce their judgment in the amount of \$2,656,944,877.00, arising from the deaths of 241 United States Marines, United States Navy medical personnel and soldiers assigned to the 24th Marine Amphibious Unit that resulted from the October 23, 1983 Iran-sponsored terrorist bombing of the United State Marine Barracks in Beirut, Lebanon.

“**Valore Plaintiffs**” refer to the plaintiffs identified in the complaints filed in the United States District Court for the District of Columbia entitled *Valore, et al. v. Islamic Republic of Iran, et al.*, No. 03-cv-1959 (RCL), *Arnold, et al. v. Islamic Republic of Iran, et al.*, No. 06-cv-516 (RCL), *Spencer, et al. v. Islamic Republic of Iran, et al.*, No. 06-cv-750 (RCL), and *Bonk, et al. v. Islamic Republic of Iran, et al.*, No. 08-cv-1273 (RCL), who seek to enforce their judgment in the amount of \$1,290,291,092.00, arising from the deaths of 241 United States Marines, United States Navy medical personnel and soldiers assigned to the 24th Marine Amphibious Unit that resulted from the October 23, 1983 Iran-sponsored terrorist bombing of the United State Marine Barracks in Beirut, Lebanon.

“**Acosta Plaintiffs**” refer to the plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Acosta, et al. v. Islamic Republic of Iran, et al.*, Civil Action No. 06-745 (RCL), who seek to enforce their judgment in the amount of \$350,172,000.00, arising from the deaths that resulted from the Iran-sponsored assassination of Rabbi Meier Kahane and the shooting of Irving

Franklin and U.S. Postal Police Officer Carlos Acosta on November 5, 1990, in New York.

“Greenbaum Plaintiffs” refer to the plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Greenbaum et al. v. Islamic Republic of Iran, et al.*, Civil Action No. 02-2148 (RCL), who seek to enforce their judgment in the amount of \$19,879,023.00, arising from the death that resulted from the Iran-sponsored August 9, 2001 suicide bombing of a restaurant in downtown Jerusalem, Israel.

“Heiser Plaintiffs” refer to the plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Estate of Heiser v. Islamic Republic of Iran, et al.*, Civil Action Nos. 00-02329 and 01-02104 (RCL), who seek to enforce their judgment in the amount of \$254,431,903.00, arising from the death of 17 United States Air Force officers killed in the Iran-sponsored June 25, 1996 terrorist bombing of the Khobar Towers in Saudi Arabia.

“Levin Plaintiffs” refer to the plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Levin v. Islamic Republic of Iran, et al.*, Civil Action No. 05-02494 (GK), who seek to enforce their judgment in the amount of \$28,807,719.00, arising from the kidnapping of Jeremy Levin in Beirut on March 7, 1984.

“Murphy Plaintiffs” refer to plaintiffs identified in the complaint filed in the United States District Court for the District of Columbia entitled *Murphy v. Islamic Republic of Iran*, Civil Action No. 06-CV-596 (RCL), who seek to enforce their judgment in the amount of \$93,168,141.60, arising from the deaths of 241 United States

Marines, United States Navy medical personnel and soldiers assigned to the 24th Marine Amphibious Unit that resulted from the October 23, 1983 Iran-sponsored terrorist bombing of the United State Marine Barracks in Beirut, Lebanon.